

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

NEIL HOLLANDER, M.D.

**Physician's and Surgeon's
Certificate #G 18418**

Respondent.

Case No. 04-2003-148886

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 15, 2007.

IT IS SO ORDERED July 16, 2007

MEDICAL BOARD OF CALIFORNIA



**Cesar A. Aristeiguieta, M.D., F.A.C.E.P.
Chair, Panel A
Division of Medical Quality**

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2083
Facsimile: (619) 645-2061
8

9 Attorneys for Complainant

10 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
11 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 NEIL HOLLANDER, M.D.
8888 Lauderdale Court, #216H
Huntington Beach, CA 92646
15

16 Physician's and Surgeon's Certificate
No. G18418
17

18 Respondent.

Case No. 04-2003-148886

OAH No. L-2005120210

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties
21 to the above-entitled proceedings that the following matters are true:

22 PARTIES

23 1. David T. Thornton (Complainant) is the Executive Director of the
24 Medical Board of California. He brought this action solely in his official capacity and is
25 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
26 California, by Samuel K. Hammond, Deputy Attorney General.

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2. Respondent Neil Hollander, M.D. (Respondent) is represented in this proceeding by attorney Richard Moss, Esq., whose address is 255 South Marengo Avenue, Pasadena, California 91101-2719.

3. On or about June 10, 1970, the Medical Board of California issued Physician's and Surgeon's Certificate No. G18418 to Neil Hollander, M.D. The Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 04-2003-148886 and will expire on July 31, 2008 unless renewed. On December 17, 2003, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California ("Division") issued its Decision and Order in Case No. 18-2001-118989. The Decision and Order, which became effective on January 16, 2004, placed respondent's license on three (3) years probation under specified terms and conditions. By operation of the terms of that Decision and Order, respondent's probation has run and is extended until matter the of Accusation No. 04-2003-148886 is final.

JURISDICTION

4. Accusation No. 04-2003-148886 was filed before the Division, and is currently pending against respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on respondent on July 11, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 04-2003-148886 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. 04-2003-148886. Respondent has also carefully read, discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on

his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations in Accusation No. No. 04-2003-148886 and that, he has thereby subjected his Physician's and Surgeon's Certificate No. A G18418 to disciplinary action. Respondent agrees to be bound by the Division's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

9. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Division for its consideration in the above-entitled matter and, further, that the Division shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.

10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Division, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Division may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Division, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Division, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary

1 Order, with the exception of this paragraph, it shall not become effective, shall be of no
2 evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary
3 action by either party hereto. Respondent further agrees that should the Division reject this
4 Stipulated Settlement and Disciplinary Order for any reason, respondent will assert no
5 claim that the Division, or any member thereof, was prejudiced by its/his/her review,
6 discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of
7 any matter or matters related hereto.

8 ADDITIONAL PROVISIONS

9 11. This Stipulated Settlement and Disciplinary Order is intended by the
10 parties herein to be an integrated writing representing the complete, final and exclusive
11 embodiment of the agreements of the parties in the above-entitled matter.

12 12. The parties understand and agree that facsimile copies of this
13 Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall
14 have the same force and effect as the originals.

15 13. In consideration of the foregoing admissions and stipulations, the
16 parties agree the Division may, without further notice to or opportunity to be heard by
17 respondent, issue and enter the following Decision and Disciplinary Order:

18 DISCIPLINARY ORDER

19 **IT IS HEREBY ORDERED** that the probation previously granted
20 respondent Neil Hollander, M.D. in Case No 18-2001-118989, is extended for an
21 additional two (2) years from the original date probation was to have expired pursuant to
22 Division's Decision and Order in Case No 18-2001-118989 which became effective
23 January 16, 2004. Probation Conditions No. 4 through 18 in the Division's Decision in
24 Case No. 18-2001-118989 shall remain in full force and effect until respondent's extended
25 probation period is completed.


26 Within 15 days of the effective date of this Decision respondent shall
27 provide the Division, or its designee, proof of service that respondent has served a true
28 copy of the Decision and Accusation to the Chief of Staff or Chief Executive Officer at

1 every hospital where privileges or membership are extended to respondent, at any hospital
2 where respondent engages in the practice of medicine, including all physician and locum
3 tenens registries or other similar agencies, and to the Chief Executive Officer at every
4 insurance carrier which extends malpractice insurance coverage to respondent.

5 ACCEPTANCE


6 I have carefully read the above Stipulated Settlement and Disciplinary
7 Order and have fully discussed it with my attorney, Richard Moss, Esq. I understand the
8 stipulation and the effect it will have on my Physician's and Surgeon's Certificate
9 No. 618418. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
10 knowingly, and intelligently, and agree to be bound by the Decision and Order of the
11 Division of Medical Quality, Medical Board of California, Department of Consumer
12 Affairs, State of California.

13 DATED: 05/04/2007

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16 NEIL HOLLANDER, M.D.
17 Respondent

18 I have read and fully discussed with respondent Neil Hollander, M.D. the
19 terms and conditions and other matters contained in the above Stipulated Settlement and
20 Disciplinary Order. I approve its form and content.

21 DATED: 05/16/07

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24 RICHARD MOSS, ESQ.
25 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California.

DATED: June 6, 2007

EDMUND G. BROWN JR., Attorney General
of the State of California

THOMAS S. LAZAR
Supervising Deputy Attorney General



SAMUEL K. HAMMOND
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005700700
Hollander.stip.wpd

Exhibit A

Accusation No. 04-2003-148886

1 BILL LOCKYER, Attorney General
of the State of California
2 D. KENNETH BAUMGARTEN, State Bar No. 124371
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, California 92101
P.O. Box 85266
5 San Diego, California 92186-5266
Telephone: (619) 645-2195
6 Facsimile: (619) 645-2061

7 Attorneys for Complainant

8
9 **BEFORE THE**
10 **DIVISION OF MEDICAL QUALITY**
11 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 04-2003-148886

13 **NEIL HOLLANDER, M.D.**
8888 Lauderdale Court, # 216H
14 Huntington Beach, CA 92648
15 Physician's and Surgeon's
Certificate No. G 18418

ACCUSATION
(Cal. Gov. Code, § 11503.)

16
17 Respondent.

18 Complainant David T. Thornton, as causes for disciplinary action, alleges:

19 **PARTIES**

20 1. Complainant is the Executive Director of the Medical Board of California,
21 Department of Consumer Affairs, State of California (hereinafter the "Board"), and makes and
22 files this Accusation solely in his official capacity.

23 2. At all times mentioned herein, Neil Hollander, M.D., (hereinafter
24 "Respondent") has been licensed by the Board under Physician's and Surgeon's Certificate
25 G 18418. Said certificate was issued by the Board on June 10, 1970, and will expire on July 31,
26 2006, unless renewed.

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1 conduct which is unbecoming to a member in good standing of the medical profession, and
2 which demonstrates an unfitness to practice medicine.^{2/}

3 7. Section 2266 of the Code provides that the failure of the physician and
4 surgeon to maintain adequate and accurate records relating to the provision of services to their
5 patients constitutes unprofessional conduct.

6 8. Section 125.3 of the Code provides, in pertinent part, that in any order
7 issued in resolution of a disciplinary proceeding, a board may request that the administrative law
8 judge direct a licensee found to have committed a violation or violations of the licensing act to
9 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case,
10 including charges imposed by the Attorney General. Under section 125.3, subdivision (c), a
11 certified copy of the actual costs or a good faith estimate of costs where actual costs are not
12 available, including investigative and enforcement costs, and charges imposed by the Attorney
13 General, up to the date of the hearing, signed by the designated representative of the entity
14 bringing the proceeding shall be *prima facie* evidence of the reasonable costs of investigation and
15 prosecution of the case.

16 9. Section 14124.12 of the Welfare and Institutions Code provides, in
17 pertinent part, that:

18 “(a) Upon receipt of written notice from the Medical Board of
19 California, the Osteopathic Medical Board of California, or the Board of Dental
20 Examiners of California, that a licensee's license has been placed on probation as
21 a result of a disciplinary action, the Department may not reimburse any Medi-Cal
22 claim for the type of surgical service or invasive procedure that gave rise to the
23 probation, including any dental surgery or invasive procedure, that was performed
24 by the licensee on or after the effective date of probation and until the termination
25 of all probationary terms and conditions or until the probationary period has
26 ended, whichever occurs first. This section shall apply except in any case in
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28 2. *Shea v. Board of Medical Quality Assurance* (1978) 81 Cal.App.3d 564, 575.

1 which the relevant licensing board determines that compelling circumstances
2 warrant the continued reimbursement during the probationary period of any
3 Medi-Cal claim, including any claim for dental services, as so described. In such
4 a case, the Department shall continue to reimburse the licensee for all procedures,
5 except for those invasive or surgical procedures for which the licensee was placed
6 on probation.”

7 **FIRST CAUSE FOR DISCIPLINARY ACTION**

8 (Gross Negligence)

9 10. Respondent has subjected his Physician's and Surgeon's Certificate No.
10 G 18418 to disciplinary action under sections 2227 and 2234(b) of the Code, in that he has
11 committed gross negligence in his care and treatment of patient S.V. The circumstances are as
12 follows:

13 A. Respondent was one of the primary care physicians for patient
14 S.V., a male infant born October 30, 1997. During 1998 and 1999, the relevant time
15 periods of this action, Respondent was a contract physician working with another
16 physician identified as Dr. H.W. During this time period, Respondent provided medical
17 care to patient S.V.

18 B. According to the parents of patient S.V., Juan and Juana R., it was
19 their observation that their son's development began to regress when he was about a year
20 and three months old. They reported these concerns to Respondent and Dr. H.W. during
21 medical visits. They also requested authorization to see a specialist for their son, but
22 neither Respondent, nor Dr. H.W., would authorized such a referral at the time.

23 C. According to S.V.'s parents, some time in late 1999, Respondent
24 and/or Dr. H.W. finally agreed to give them an authorization to see a specialist. However,
25 when S.V.'s father went to Respondent's office for the referral, he was reportedly
26 informed that such a referral could not be made, that their son was fine and their
27 insurance was a problem. S.V.'s father was advised to contact his insurance company,
28 which he subsequently did, and was told the referral authorization needed to be done by

1 his primary physician, which was Respondent and/or Dr. H.W. Reportedly, the
2 representative from the parents' insurance company suggested changing to a different
3 primary care physician.

4 D. During the time S.V. was being seen in Respondent's medical
5 offices, whether by Respondent or Dr. H.W., the parents were repeatedly told their son
6 was "fine", despite the parents' reports that S.V. was having trouble with his feet and
7 difficulty walking and could no longer keep his balance. The parents requested their son
8 be given x-rays or an MRI, but were told such tests were not necessary. Instead, they
9 were given antibiotics for J.V.'s ear infections.

10 E. During October and November of 1999, the parents reported their
11 son's equilibrium was getting very bad. They renewed their requests that J.V. be given
12 x-rays and an MRI, but such tests were not ordered. They also renewed their requests that
13 their son be referred to a specialist. Reportedly, Respondent and/or Dr. H.W. told the
14 parents there was no time to do such a referral and besides, the boy was well. According
15 to the parents, neither Respondent, nor Dr. H.W., ever mentioned a referral to a Regional
16 Center for evaluation of their sons walking and balance problems and that they were
17 never given a referral to such a Regional Center.

18 F. S.V.'s parents clearly communicated to Respondent and Dr. H.W.
19 repeatedly and with consistency, a series of progressive symptoms and signs of
20 neurodevelopmental regression starting when S.V. was around 15 months of age. The
21 primary concern they expressed to Respondent and Dr. H.W. was the problems with
22 S.V.'s gait. Both parents reported progressive problems with what they refer to as his
23 "equilibrium". They specifically referred to him having an increasingly unsteady, wide,
24 and, ultimately, a "waddling" gait. This is a description of ataxia, which is a neurological
25 finding of conditions that damage the cerebellum. This should have been of particular
26 concern to Respondent and Dr. H.W. given the fact that S.V. was noted to walk normally
27 at 12 months.

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1 G. In addition to their reported observations and concerns about their
2 son's gait, the parents also reported progressive problems noticed between August 1999
3 and October 1999 with S.V.'s "handling" and, ultimately, his inability to pick-up toys.
4 They also reported during this time period he was also having a difficult time holding his
5 head up, had regression of speech, and was becoming depressed and withdrawn. He also
6 started vomiting in November 1999.

7 H. S.V.'s parents eventually took him to other physicians, including a
8 pediatric neurologist, for evaluation of his worsening symptoms. Following appropriate
9 tests, including a head MRI on or about March 30, 2000, S.V. was found to have a brain
10 tumor in the area of the cerebellum. He was admitted to Children's Hospital of Orange
11 County for neurosurgical evaluation and an excision of the brain tumor was subsequently
12 completed. S.V. did experience residual impairment as a result of this tumor and its
13 removal.

14 I. Following initiation of malpractice litigation by the parents of S.V.
15 against Respondent and Dr. H.W., Respondent made changes to the patient's medical
16 records and has made a variety of explanations for doing so.

17 11. Respondent committed gross negligence in his care and treatment of
18 patient S.V., which included, but was not limited to, the following:

19 A. Respondent's entire management of patient S.V. was an extreme
20 departure from the generally accepted pediatric standards of care for the following
21 reasons:

22 1. Individual chart notes do not distinguish between sick visits
23 and well child care.

24 2. Aged based chart note templates do match chronological
25 age of the patient on many of the visits.

26 3. There is no growth chart. A review of growth parameters
27 that were charted reveal wildly inconsistent measurements that should have been
28 reviewed and reassessed.

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1 followed being advised by Dr. H.W. that a lawsuit had been filed by the parents of S.V.,
2 and that Respondent was also a named defendant.

3 **SECOND CAUSE FOR DISCIPLINARY ACTION**

4 (Incompetence)

5 12. Respondent has further subjected his Physician's and Surgeon's Certificate
6 No. G 18418 to disciplinary action under sections 2227 and 2234(d) of the Code, in that his
7 medical care to patient S.V. was incompetent as set forth in paragraphs 10 and 11, which are
8 hereby incorporated by reference in their entirety as if fully set forth herein.

9 **THIRD CAUSE FOR DISCIPLINARY ACTION**

10 (Repeated Negligent Acts)

11 13. Respondent has further subjected his Physician's and Surgeon's Certificate
12 No. G 18418 to disciplinary action under sections 2227 and 2234(c) of the Code, in that he has
13 committed repeated negligent acts in his care and treatment of patient S.V. including, but not
14 limited to, the following:

15 A. Paragraphs 10 and 11 are hereby incorporated by reference in their
16 entirety as if fully set forth herein.

17 **THIRD CAUSE FOR DISCIPLINARY ACTION**

18 (Failure to Maintain Adequate and Accurate Medical Records)

19 14. Respondent has further subjected his Physician's and Surgeon's Certificate
20 No. G 18418 to disciplinary action under section 2266 of the Code, in that he has failed to
21 maintain adequate and accurate medical records for patient S.V. as set forth in paragraphs 10 and
22 11 which are hereby incorporated by reference in their entirety as if fully set forth herein.

23 **FOURTH CAUSE FOR DISCIPLINARY ACTION**

24 (Dishonesty)

25 15. Respondent has further subjected his Physician's and Surgeon's Certificate
26 No. G 18418 to disciplinary action under section 2234(e) of the Code, in that he has been
27 dishonest by intentionally modifying the medical records of patient S.V. without appropriately
28 initialing and dating each modification. Respondent's conduct followed being advised by Dr.

1 H.W. that a medical malpractice lawsuit had been filed by the parents of S.V., and that
2 Respondent was also a named defendant in this action.

3 **ADDITIONAL DISCIPLINARY CONSIDERATIONS**

4 16. Respondent has been the subject of prior disciplinary action by the
5 Medical Board of California and is currently on probation with the Board. His disciplinary
6 history is as follows:

7 On or about October 24, 2003, an Accusation was filed against Respondent. On
8 or about January 16, 2004, a Decision became effective which read: "Revoked, stayed,
9 three years probation with terms and conditions."

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters
12 alleged herein, and that following the hearing, the Division of Medical Quality, Medical Board of
13 California, issue its Decision and Order:

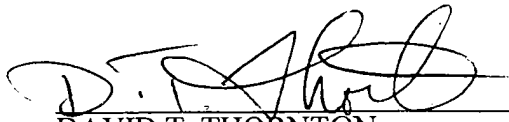
14 1. Revoking or suspending Physician's and Surgeon's Certificate No.
15 G 18418, heretofore issued by the Board to NEIL HOLLANDER, M.D.;

16 2. Revoking, suspending or denying Respondent's approval authority
17 to supervise physician's assistants pursuant to Code section 3527;

18 3. Ordering Respondent to pay the Board the reasonable costs of the
19 investigation and enforcement of this case, and, if placed on probation, the costs
20 of probation monitoring; and

21 4. Taking such other and further action as the Board deems necessary
22 and proper.

23 DATED: July 11, 2005.

24 
25 DAVID T. THORNTON
26 Executive Director
27 Medical Board of California
28 Department of Consumer Affairs
State of California

Complainant

Hollander Accusation / DKB